

REMARKS

Claims 17-19 currently appear in this application. The Office Action of July 9, 2008, has been carefully studied. These claims define novel and unobvious subject matter under § 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicant respectfully requests favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

Election/Restriction

Claims 17-19 have been elected. Claims 1-16 have been cancelled without prejudice, applicant reserving the right to present these claims in a divisional application.

Amendments

Nonelected claims 1-16 have been cancelled without prejudice.

Claim 17 has been amended to "administering a composition comprising (i) L-ascorbic acid, its derivative, or a mixture thereof and (ii) a fatty acid" to a living body. The reference to "derivative (of a fatty acid)" has been deleted from claims 18 and 19.

Information Disclosure Statement

Submitted herewith is an Information Disclosure Statement in which cites JP 04-200356, which is the correct number for the document submitted with the IDS filed March 20, 2007.

Rejections under 35 U.S.C. 112

The recitation "and/or" is said to be confusing.

The present amendment deletes this term.

Claims 17-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The term "derivative of a fatty acid" is said not to find description in the specification as filed.

This rejection is respectfully traversed. The term "derivative" has been deleted from the claims as it refers to a fatty acid.

It should be noted that derivatives of L-ascorbic acid are defined in the specification as filed at page 4, line 18 through page 5, line 12.

Art Rejections

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilmott et al., IS 4,983,382 in view of Breton et al, US 2002/0012684, and JP 10-147514. the Examiner states that Wilmott teaches a method for improving the formation and maintenance of collagen comprising administering ascorbic acid, and Breton teaches a method of combating extrinsic cutaneous aging (i.e., through stimulating collagen renewal and slowing the degeneration of the collagen fiber) comprising administering an effective amount of at least one 10-hydroxy-2-decenoic acid

companied. The Japanese publication is said to teach 10-hydroxy-2-decenoic acid as an active ingredient of royal jelly.

This rejection is respectfully traversed. The method claimed herein is for enhancing collagen production comprising administering a composition comprising (i) L-ascorbic acid or a derivative or a mixture thereof, and (ii) a fatty acid, to a living body. That is, the claimed method is characterized by the use of L-ascorbic acid in combination with a fatty acid to enhance collagen production.

As shown in Experiment 1, pages 18-21 of the specification as filed, and Figure 1, a fatty acid, i.e., 10-hydroxydecenoic acid, 10-HDA), exhibits no collagen production enhancing effect. However, as shown in Experiment 3 at pages 23-24 of the specification as filed, and Figure 5, 10-HDA enhances collagen in a concentration dependent manner in the presence of L-ascorbic and/or a derivative thereof. That is, the collagen production enhancing effect of L-ascorbic acid and/or its derivatives is synergistically increased when a fatty acid such as 10-HDA is used in combination therewith.

None of the cited references teaches such advantageous effects of the combination of L-ascorbic acid and/or its derivatives with a fatty acid in enhancing collagen production. There is nothing in the combination of Wilmott, Breton, or the Japanese publication to use 10-HDA or any other fatty acid in

combination with L-ascorbic acid and/or its derivatives to increase the collagen production enhancing effect of L-ascorbic acid and/or its derivatives.

Double Patenting

Claims 17-19 are rejected on the judicially created ground of nonstatutory obviousness type double patenting as being unpatentable over claim 12 of copending application 10/491,138.

This rejection is respectfully traversed. Submitted herewith is a terminal disclaimer.


Reconsideration and withdrawal of all of the objections are respectfully solicited.

In view of the above, it is respectfully submitted that the claims are now in condition for allowance, and favorable action thereon is earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By



Anne M. Kornbau  
Registration No. 25,884

AMK:nlw  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528